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ABBREVIATIONS

DI	Social Security Disability Insurance
ERISA	Employee Retirement Income Security Act
GAO	General Accounting Office
SSI	Supplemental Security Income
TDI	temporary disability insurance
VA	Veterans Administration

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BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Chairman, Committee On Finance United States Senate

Limits On Receipt Of Multiple Disability Benefits Could Save Millions

At the request of the Senate Committee on Finance, GAO studied the prevalence of receipt of disability benefits from Social Security and other programs. A sample of Social Security recipients were matched against the 8 largest Federal programs, 12 large State or local government disability programs, and the workers' compensation programs of the States and territories. The matched programs represented about 98 percent of the total Federal beneficiaries and about 38 percent of the total State and local government beneficiaries.

The results showed that about 16 percent of the Social Security beneficiaries received benefits from multiple programs and about 41 percent of them received aggregate benefits exceeding their predisability earnings. We estimate that about $149 million could be saved annually by applying an offset to the Civil Service, Military, Black Lung B, and local government disability programs. Extending the offset to the Veterans Compensation program could save an additional $283 million annually.

HRD-81-127
JULY 28, 1981

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

B-204111

The Honorable Robert Dole
Chairman, Committee on Finance
United States Senate

Dear Mr. Chairman:

In Senate Report 96-408, dated November 8, 1979, the Senate Committee on Finance expressed concern that individuals can receive benefits from Social Security Disability Insurance (DI) and a number of other public disability plans which results in aggregate benefits which exceed the individual's predisability earnings. In the report, the Committee requested that we "study the prevalence of multiple receipt of disability benefits from DI and other programs (in addition to workers' compensation), as well as various approaches to better coordinate the overall benefits provided to an individual for the purpose of precluding them from exceeding the worker's predisability earnings."

After the Committee's request, we had several meetings with the Committee staff and agreed to provide the results of our review in the Spring of 1981. On May 5, 1981, we provided a briefing document to your Committee staff so that the information developed in our review would be available for the Committee's consideration of the 1981 Amendments to the Social Security Act proposed by the administration. As you know, the amendments included a provision to offset the DI benefits against payments received from certain other disability programs.

The appendix gives details on the results of our review, including additional information that was not part of the May 5 briefing document. We believe the information provides heretofore unavailable statistics on the number of people receiving multiple disability benefits and reliable estimates of potential savings by offsetting benefits against the DI program so that maximum payments will not exceed 80 percent of the worker's average current earnings before the onset of disability. The appendix also provides:

--Demographic information on a sample group of disabled individuals.

--Perspectives on programs that the administration has not proposed be offset, and the additional potential savings if offsets were made for these programs.

--The legislative history of the offset provision being advocated.

--Some basic questions and concerns that the Congress and the administration should address in structuring legislation in this area.

In performing our review, we determined that about 4,900 Federal, State, and local programs include disability benefits. Forty-five of these programs are administered by the Federal Government. We defined Federal disability programs as those exempt from the Employee Retirement Income Security Act or those supported by tax revenue. (See p. 12.) During fiscal year 1980, these Federal programs paid over $37 billion in benefits to over 11 million beneficiaries. The most recent data on the State and local programs gathered by the Bureau of the Census in 1977 showed that for 3,075 State and local government benefit programs about 152,000 persons were receiving annual disability benefits of about $600 million. Data were not available on the other State and local programs.

A sample of 11,669 DI recipients on the rolls as of March 1980 was matched against the disability rolls of the 8 largest Federal retirement systems, 12 large State or local government retirement systems, and the workers' compensation programs of the States and territories. The programs matched represented about 98 percent of the total Federal beneficiaries and about 38 percent of the total State and local government beneficiaries. The results showed that 1,913 (about 16 percent) of the DI beneficiaries also received benefits from one or more of the matched programs. About 41 percent of these beneficiaries received aggregate benefits exceeding their predisability earnings.

We estimate that about $149 million could be saved annually if the workers' compensation offset formula (limiting the maximum disability payments to 80 percent of the worker's average current earnings before the onset of disability) were extended to the Civil Service, Military, Black Lung B, and State and local government employees' disability programs. Also, extending the offset to the Veterans Compensation program could save an additional $283 million annually.

As requested by the Committee, we did not take the additional time to obtain comments on this report from the departments and agencies involved. We are sending copies of this report to other cognizant congressional committees; the Director, Office of Management and Budget; and the departments and agencies responsible for the programs discussed. Copies will also be available upon request to other interested parties.

Sincerely yours,

Gregory J. Ahart
Director

APPENDIX I

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ABBREVIATIONS

DI	Social Security Disability Insurance
ERISA	Employee Retirement Income Security Act
GAO	General Accounting Office
SSI	Supplemental Security Income
TDI	temporary disability insurance
VA	Veterans Administration

LIMITS ON RECEIPT OF MULTIPLE DISABILITY BENEFITS COULD SAVE MILLIONS

INTRODUCTION

The growth in the Social Security Disability Insurance (DI) program has caused concern in the Congress. Many disabled persons collect benefits from two or more programs and the combined disability payments are sometimes more than the workers earned before becoming disabled. Some experts say that when overlapping coverage results in benefits which are close to or more than the person earned before becoming disabled, that person is more likely to apply for benefits and less likely to return to work.

The DI program is the largest public disability program and has grown significantly in the last decade. Benefits increased from $2.8 billion in 1970 to $13.5 billion in 1979, a 382-percent increase. During the same period, the number of cases on the DI rolls increased from 2.7 million to 4.9 million. 1/ In fiscal year 1980, benefits totaling about $14.9 billion were paid.

Objective, scope, and methodology

The Senate Committee on Finance expressed concern about the growth in the Social Security disability program and about individuals receiving combined benefits from social security and other public disability programs in excess of their predisability income. The Committee asked us to study the prevalence of multiple disability benefits.

Information was not readily available on the number of public programs that provide disability benefits or the number of disabled workers that receive multiple benefits. We identified public programs by analyzing data from several studies and by contacting Federal agencies.

We determined that about 4,900 Federal, State, and local programs include disability benefits. Forty-five of these programs are administered by the Federal Government. We defined Federal disability programs as those exempt from the Employee Retirement Income Security Act (ERISA) or those supported by tax revenue. (See p. 12.) During fiscal year 1980, these Federal

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1/Figure includes disabled workers and their dependents. The numbers of primary disabled workers for 1970 and 1979 were 1.5 million and 2.9 million, respectively.

programs paid over $37 billion in benefits to over 11 million beneficiaries. Social Security programs accounted for $22.3 billion or about 60 percent of the total. In 1977, the Bureau of the Census gathered data on 3,075 State and local government benefit programs showing that about 152,000 persons were receiving annual disability benefits of about $600 million. Data were not available on the other State and local programs.

Because of the large number of programs and unavailability of data, we limited the scope of our study to 8 of the largest Federal programs and 12 of the 20 largest State and local government programs. We randomly selected 11,669 cases (or 2 percent) of the 583,450 DI primary beneficiaries who received benefits in March 1980 and whose disability began in 1977 or 1978. Our sample can be statistically projected to the 583,450 beneficiaries, but not to the entire 2.9 million primary beneficiaries on the rolls in March 1980.

Our random sample was matched against the 20 programs resulting in 1,913 recipients (or about 16 percent) being identified as receiving disability payments from one or more of the matched programs as shown in the following table.

Matched programs	Number of matches	Percent
Federal		
Black Lung, Part B	8	0.07
Black Lung, Part C	3	.02
Civil Service	52	.45
Federal Employees Compensation Act	3	.02
Military	34	.29
Supplemental Security Income	66	.57
Veterans Compensation	530	4.54
Veterans Pension	757	6.49
Subtotal	1,453	12.45
State or local government	147	1.26
State workers' compensation	264	2.26
Two or more of the above programs	49	.42
Total	1,913	16.39

The programs matched represented about 98 percent of the total Federal beneficiaries and about 38 percent of the total State or local government beneficiaries. DI recipients who also received State workers' compensation were identified only if the data were reported to Social Security.

In April 1981, the administration introduced a bill which would make disability benefits received from any Federal, State, or local government plan subject to the workers' compensation offset provision (see below). Under the administration's bill, Veterans Compensation benefits, needs-based assistance plans, benefits based on public service employment covered by Social Security, and disability benefits received under a private plan would be exempt from the offset provision. 1/

Of the 20 disability programs matched, the Black Lung (Part C) and Federal Employees Compensation Act benefits are classified as workers' compensation payments and, along with State workers' compensation payments, are already offset against DI benefits. In addition, two other matched programs, Supplemental Security Income (SSI) and Veterans Pension, require a test of need based on income and assets. These programs are, in effect, already offset because the needs-based benefit is reduced by other benefits received. Accordingly, these programs were excluded from our estimate of savings.

We also excluded Veterans Compensation from our initial estimates. However, due to its size, we considered it important to show the potential savings that could be achieved by offsetting Veterans Compensation benefits.

We applied the existing workers' compensation offset provision in developing our data. Under the offset provision a worker's DI benefits are reduced so that the combined payments from DI and workers' compensation do not exceed the larger of (1) 80 percent of the worker's average current monthly earnings before he or she becomes disabled (predisability earnings) or (2) the amount of the total family DI benefits.

To determine the average current earnings for our sample, we used the definition cited in section 504 of the Social Security Handbook. The handbook defines the average current earnings as the highest of the average monthly earnings

--used to compute the worker's primary insurance amount (an individual's earnings averaged over the working lifetime),

--from covered employment and self-employment during the highest 5 consecutive years after 1950, or

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1/Our estimate of savings includes the offset against 12 of the 20 largest State or local government employee disability programs. It is not clear how the administration-proposed exemption of benefits based on public service employment under Social Security would affect these programs.

APPENDIX I

--based on the 1 calendar year of highest earnings during a period consisting of the year in which disability began and the 5 preceding years.

OFFSETTING PUBLIC DISABILITY PROGRAMS WITH DI COULD SAVE THE SOCIAL SECURITY TRUST FUND MILLIONS OF DOLLARS

About 16 percent of DI beneficiaries also receive payments from one or more other disability programs. We estimate that about $149 million of the DI benefits paid during fiscal year 1980 could have been saved by applying the workers' compensation offset to the public disability programs matched in our study. Furthermore, we found that about 41 percent of the multiple benefit recipients in our sample received combined benefits in excess of what they earned before becoming disabled.

Potential savings by offsetting multiple benefits

In March 1980, our universe of 583,450 beneficiaries received about $258 million in DI benefits. Applying the workers' compensation offset formula results in estimated savings of about $2.6 million for March 1980. If Veterans Compensation is included in the offset, the savings for March 1980 increase by $4.8 million. The following table shows the estimated savings for the various matched programs.

DI Beneficiaries Receiving Multiple Benefits

Programs	Matched beneficiaries	Projected to universe (note a) as of March 1980: Estimated beneficiaries	Estimated savings	Percent of savings to benefits
Included in administration's proposal:				
Civil Service	52	2,600	$ 735,571	
Military	34	1,700	638,283	
Black Lung (Part B)	8	400	83,960	
State and local government	147	7,350	1,177,474	
Subtotal	241	12,050	2,635,288	1.0
Excluded from administration's proposal:				
Veterans administration compensation	530	26,500	4,794,648	1.9
Needs-based and currently offset:				
Veterans administration pension	757	37,850	3,059,416	2.9
SSI	66	3,300	169,533	
Workers' compensation (note b)	270	13,500	4,176,291	
Subtotal	1,864	93,200	14,835,176	5.8
Multiple matches	49	2,450	1,127,290	.4
Total	1,913	95,650	$15,962,466	6.2

a/Universe is equal to 583,450 DI beneficiaries on the rolls in March 1980 whose disabilities began in 1977 or 1978.

b/Includes State, Federal, and Black Lung (Part C) compensation program.

Although the sample results cannot be statistically projected to the entire DI population, they can provide a fair approximation--or "ballpark" estimate--of potential savings from a cap on combined disability benefits. For fiscal year 1980 total DI benefits paid were about $14.9 billion. Applying our estimated percentage of savings to benefits (as shown on the table on p. 5) and assuming that the DI beneficiaries in March 1980 who became disabled in 1977 or 1978 did not differ significantly from those who became disabled in other years, the estimated savings for the year 1980 could be about $149 million. If Veterans Compensation--the largest matched program--is included in the offset, it could save an additional $283 million annually.

In many cases disability benefits exceed predisability earnings

The Committee's concern that combined disability benefits may exceed predisability earnings was well founded. As the following table shows, about 41 percent of the multiple benefit recipients in our sample received combined benefits in excess of what they earned before becoming disabled.

Program	Number in sample	Combined benefits exceed 80 percent of predisability earnings: Cases	Percent	Combined benefits exceed 100 percent of predisability earnings: Cases	Percent
Veterans Pension	757	409	54	280	37
Veterans Compensation	530	258	49	204	38
SSI	66	38	58	27	41
Civil Service	52	51	98	48	92
Military	34	29	85	26	76
Black Lung (Part B)	8	7	88	6	75
Subtotal	1,447	792	55	591	41
State or local government	147	81	55	40	27
Multiple matches	49	45	92	41	84
Total	1,643	918	56	672	41

The table also shows the number of cases in which combined benefits exceed 80 percent of predisability earnings. Since disability benefits replace earnings lost because the recipient can no longer work, it is important to relate disability benefits to take-home rather than gross pay. Disability benefits are always exempt from social security taxes and are largely exempt from income taxes. Depending on the person's tax bracket, the percentage

of gross income needed to match predisability take-home pay may be 70 percent or less. The percentage may be reduced even further without causing any real economic loss to the individual if he or she incurred work-related expenses, such as transportation, union dues, lunches, special work clothing, etc.

The Health Insurance Association of America has taken the position that when taxes and work-related expenses are considered, the average disabled individual needs only 65 to 75 percent of his or her gross pay to retain the same level of spendable income. The Association believes benefit levels should be no higher than 55 to 65 percent of predisability gross income to provide appropriate economic incentive for an individual to return to work as soon as the individual is physically able.

The 1979 Advisory Council on Social Security also recommended that a limit be applied to each family's receipt of total Federal disability benefits. Council members believe that if the programs replaced more income than was lost, monetary incentives for the worker to seek employment are lost.

Sample demographics

Demographic data for DI recipients are scarce. The following table represents our effort to provide a sketch of some of the characteristics of our sample of DI recipients who also receive payments from other public disability programs. The information in the table is based on a review of 788 case files.

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Demographic Data--788 Case Files, Multiple Disability Benefits Recipients (note a)

Age (note b)

	Under 21	21 to 35	36 to 50	51 to 65	Average
Number	2	89	171	525	51
Percent	0	11	22	67	

Sex

	Male	Female
Number	724	64
Percent	92	8

Marital status (note c)

	Married	Single
Number	643	139
Percent	82	18

Dependents

Average dependents per case (not including spouse): 1.0

Occupation

Category:	Number	Percent
Professional and technical	75	10
Managers and administrators, except farm	67	9
Sales	21	3
Clerical	42	5
Craftsman	201	26
Operatives, except transport	107	14
Transport equipment operatives	61	8
Laborers, except farm	71	9
Farmers and farm managers	6	1
Farm laborers and foremen	3	0
Service workers, except private household	121	15
Private household workers	0	0
Occupation not reported	13	2
	788	d/100

Type of disability

Category of disorder:	Number	Percent
Unknown or not reported	3	0
Musculoskeletal system	261	33
Special senses and speech	18	2
Respiratory system	48	6
Cardiovascular system	242	31
Digestive system	10	1
Genito-Urinary system	14	2
Hemic and lymphatic system	7	1
Skin	8	1
Endocrine system	21	3
Multiple body systems	7	1
Neurological	53	7
Mental	75	10
Neoplastic Disease--malignant	21	3
	788	d/100

a/During this review, we were able to retrieve from the Social Security Administration only 788 case files of the 1,913 matches.

b/Based on 787 cases; data not available for 1 case.

c/Based on 782 cases; data not available for 6 cases.

d/Does not add to 100 percent due to rounding.

LEGISLATIVE HISTORY OF THE OFFSET PROVISION

Whether disabled workers should forfeit all or a portion of their Social Security disability benefits if they receive other disability payments is a question that has troubled the Congress since the first laws were passed authorizing disability benefits under Social Security. Initially, Social Security disability benefits were reduced (or offset) by any Federal disability benefit or State workers' compensation payment made to a disabled worker. However, subsequent amendments to the law changed congressional policy over the years. First, the law was changed to exempt veterans' disability compensation benefits from the offset provision. Next, the offset provision was eliminated altogether. Finally, the offset provision was restored for State workers' compensation benefits only.

Congressional policy on offset has fluctuated over the years

Social Security disability cash benefits became effective with the Social Security Amendments of 1956. The offset provision adopted then required the Social Security benefit to be reduced by the full amount of any State or Federal workers' compensation benefit or any Federal disability benefit.

The Social Security Admendments of 1957 modified the offset provision to exclude veterans' compensation benefits. The Social Security Admendments of 1958 repealed the offset provision for all Federal disability programs and State workers' compensation programs. In 1965, the Social Security Act was amended to include the offset of State workers' compensation against Social Security disability insurance. Unlike the amendments adopted in 1956, no other programs were included. Also, instead of a dollar-for-dollar offset, the 1965 amendments provided for offset of amounts over 80 percent of predisability income.

In considering the 1965 Social Security Amendments the Senate Committee on Finance noted that concern had been expressed by many witnesses in the hearings about the payment of Social Security disability benefits concurrently with benefits payable under tate workers' compensation programs. The Committee concluded that it was "a matter of sound principle" to prevent the payment of excessive combined benefits.

The Congress again amended the offset provision in 1967, 1972, and 1977. These amendments made minor changes in the method of calculating the offset, but did not change the basic philosophy of basing the offset on predisability income. This philosophy was emphasized by the congressional committees in the years following the 1965 amendments:

--"The objective of these provisions is to avoid the payment of combined amounts of social security benefits and workmens' compensation payments that would be excessive in comparison with the beneficiary's earning before disablement." (Report of the House Committee on Ways and Means on the Social Security Amendments of 1967.)

--"* * * the committee subscribes to the principle underlying the offset provision--that the combined benefits should be somewhat less than the worker's earnings before he became disabled * * *." (Report of the Senate Committee on Finance on the Social Security Amendments of 1972.)

In the past, congressional testimony and reports have produced statements for and against the offset provision, such as the following:

For	Against
"Excess benefits provide a strong disincentive for the disabled to return to work."	"It is the purpose of DI to provide the basic protection against loss of income due to disability."
"Workers' compensation programs are the most appropriate source for the reimbursement of occupational injuries, reflecting the employers' liability and safety record. Without the offset, DI encroaches on the State workers' compensation programs."	"It is unfair to offset DI against the benefits of some groups, particularly veterans."
"Letting DI share some of the burden from State workers' compensation programs leads to lost incentive for employers to maintain a safe work environment."	"It is unfair to offset DI against some programs but not others."

BASIC QUESTIONS AND CONCERNS THAT SHOULD BE ADDRESSED

In establishing an offset provision limiting multiple disability benefits, certain implementation and administration issues should be considered, such as:

--Which programs and/or benefits should be included?

--What measure of predisability income should be used?

--Should adjustments be made for differences in Federal and/or State and local tax treatment of disability benefits?

In addition to these questions, concern has been expressed regarding the impact that the offset provision will have on programs which are already integrated with Social Security benefits and whether the legal and technical barriers involved in exchanging information between Social Security and the other public programs have been identified.

Which programs and benefits should be included for offset?

Excluding DI, public disability programs can be categorized as follows:

--Needs-based programs for the needy disabled.

--Workers' compensation programs, both Federal and State.

--Federal, State, and local government employees disability programs.

--State temporary disability programs.

This section discusses some of the factors the Congress should consider in determining whether or not various public disability programs or categories of programs should be included in offsetting legislation.

Needs-based programs for the needy disabled

This category includes the SSI and the Veterans Administration (VA) pension programs. Both programs are designed to provide a basic subsistence level of income to a disabled person after all other resources have been considered. Persons receiving benefits from these programs often receive benefits or income from other sources. When the income or benefits from other sources are below the minimum income established for the needs-based programs, these programs make up the difference.

In matching our sample of about 12,000 DI beneficiaries with other program beneficiaries (see p. 2), we found that about 0.6 percent were receiving SSI benefits and about 6.5 percent were receiving Veterans Pension benefits.

If offsetting legislation were to include the needs-based programs, many individuals' combined benefits would be reduced below the subsistence level established for the needs-based programs.

Legislation proposed by the administration excludes needs-based programs.

Workers' compensation programs

Existing law requires a reduction of an individual's DI benefits whenever he or she receives combined benefits from DI and a State or Federal workers' compensation program which exceed 80 percent of his or her predisability income. Section 244(d) of the Social Security Act provides that benefits are not reduced under the workers' compensation offset provision if a State elects instead to reduce its workers' compensation benefits.

Eleven States have elected to reduce part or all of their workers' compensation benefits against Social Security's disability benefits. We reviewed the effects of continuing to permit States to reduce workers' compensation benefits and recommended that the practice be discontinued. Our findings were presented in the report "Legislation Authorizing States to Reduce Workers' Compensation Benefits Should Be Revoked" (HRD-80-31, Mar. 6, 1980).

Federal employees' disability programs

No special arguments have been raised concerning the inclusion or exclusion of Federal employees' disability programs. One special problem arises, however, in considering Federal employees' programs. Many quasi-government organizations have characteristics of both Federal and private organizations. The question arises as to which of these organizations should be considered public or Federal and therefore have their employees' disability programs included in offsetting legislation.

One possible solution is to include programs which qualify for exemption under ERISA. ERISA, enacted in 1974, imposed stringent requirements on private sector pension plans in such areas as funding, benefit liabilities, fiduciary standards, and employee participation and vesting. ERISA, however, specifically excludes retirement plans established or maintained by agencies and instrumentalities of Federal, State, and local governments. Under ERISA, a government plan is defined as

> "* * * a plan established or maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by agency or instrumentality of any of the foregoing."

If this definition were used to identify the programs to be included under offsetting legislation, the disability programs for employees of the following quasi-Federal bodies would be included:

1. Farm credit districts.

2. Nonappropriated fund instrumentalities.

   --Army and Air Force Exchange Service.
   --Coast Guard Exchange.
   --Navy Resale and Services Support Office.
   --Bureau of Naval Personnel.
   --U.S. Marine Corps Exchange.
   --U.S. Army Emplcyees.
   --U.S. Air Force Plan for Civilian Employees.

3. Smithsonian Institution.

4. U.S. Department of Agriculture Graduate School.

5. Uniformed Services University of the Health Sciences.

6. Tennessee Valley Authority.

7. Federal Reserve System.

Although specifically exempted from ERISA as government instrumentalities, some of these organizations' employee benefits are not comparable to benefits under the Civil Service or Uniformed Services programs. Furthermore, many of them receive no public funds. Detailed descriptions of the disability programs for the organizations listed above and for the other Federal programs were prepared during our study and provided separately to the Senate Committee on Finance staff. Additional information on these programs is also available in our report "Need for Overall Policy and Coordinated Management of Federal Retirement Systems" (FPCD-78-49, Dec. 29, 1978).

State temporary disability insurance programs

Temporary disability insurance (TDI) provides partial compensation for short term loss of wages because of sickness or injury which is not job related. Five States (California, New York, New Jersey, Rhode Island, and Hawaii) have TDI laws. Puerto Rico also has such a law. In all of those jurisdictions, coverage is mandatory for all employees except exempted categories. Some States exempt certain categories, such as government employees.

Generally, covered employees are eligible for TDI benefits 7 days after a disabling illness or injury. 1/ Benefits are related to the individual's earnings. The benefits are intended to replace at least half of the disabled individual's weekly wage loss. In all jurisdictions except California, TDI benefits are available for a maximum of 26 weeks. In California, the maximum was extended to 39 weeks beginning January 1, 1980. Since a disabled person is not eligible for DI benefits until 5 months have elapsed from the onset of disability, the potential for overlap between DI and TDI benefits is limited. In all States except California, the maximum potential overlap is about 6 weeks. In California, it is about 19 weeks. In New York and New Jersey, TDI benefits are reduced for any DI benefits received.

How should predisability income be measured?

Discussions about the appropriate level of disability benefits often focus on the relationship between the disabled person's earnings before his or her disability and the amount of his or her disability benefits. Both the Senate Committee on Finance and the House Committee on Ways and Means have expressed opinions that (1) it is inappropriate for an individual to receive more in disability benefits than he or she was earning from working before the disability and (2) the worker's disability benefits should not be so high as to provide significant disincentives to return to work. Accordingly, previous offseting legislation since 1965 has limited benefits to a percentage of the workers' predisability earnings. In formulating an offset program, a question arises about whether noncovered wages should be included when measuring the beneficiaries' predisability income.

About 10 percent of the jobs in the economy are not covered by Social Security. For instance, most of the civilian employees of the Federal Government are not covered. In addition, about 25 percent of State and local government employees are not covered. Coverage for such employees is sometimes optional on a group basis.

Most of the employees who work for public organizations not covered by Social Security are provided some form of disability coverage by their employer. Many such employees also qualify for DI benefits. An employee may obtain dual coverage, for example, when he or she works primarily under noncovered employment, but has a second job under covered employment.

1/In California and New York, benefits are paid immediately if the individual is hospitalized.

Dual coverage sometimes occurs when a person retires on disability from a noncovered job, takes another job in covered employment for a few years, and then becomes eligible for DI benefits. Differences in how various programs define disability can allow this to happen. For example, Federal Government employees may be eligible for disability retirement under the Civil Service disability retirement program because they are unable to perform their normal job. However, the individual is sometimes able to perform another job and obtain employment covered by Social Security outside the Federal Government. After gaining coverage under Social Security, the individual's condition might worsen, or an additional injury or illness might occur which qualifies the individual for DI benefits. The worker's DI benefits would be based on earnings from the employment covered by Social Security.

It may be that the worker's earnings while working in noncovered employment were substantially higher than the earnings which qualified him for Social Security and which were used in computing DI benefits. If an offset were placed on combined benefits and only covered earnings were used in computing the benefit amount, the resulting amount would often be substantially lower than if wages in noncovered employment were used to develop the offset. It has been argued that in such a case, a limit based only on covered earnings is not a fair measure of the individual's predisability earnings since the individual's highest earnings occurred before his first disability.

The following example, which shows the differences, is not an actual case found in our study, but rather one that typifies the situation we found.

Worker's Earnings History

Type of employment	Year	Earnings
Noncovered	1974	$19,000
Noncovered	1975	20,000
Noncovered	1976	21,000
Covered	1977	8,000
Covered	1978	9,000
Covered	1979	10,000

In the example, the worker became disabled in 1976 for purposes of the noncovered employment. Soon after, the worker began working at another job which was covered under Social Security. In 1979, after a few years in employment covered by Social Security, he or she becomes further disabled. Assuming an offset similar to the workers' compensation offset is established, the worker would be subject to a much smaller benefit amount if only covered employment was used, as shown on the next page.

Offset based on covered earnings only		Offset basis includes noncovered earnings	
High year:	$10,000	High year:	$21,000
Cap (80 percent):	$ 8,000	Cap (80 percent):	$16,800

Should the offset compensate for differences in the tax treatment of various disability program benefits?

Benefits from various Federal disability programs receive different treatment under Federal tax laws. If an offset is applied equally to all public disability programs, different individuals who are receiving the same amount of combined benefits, but from different programs, could end up receiving different amounts after Federal taxes. For example, let us consider the following possible situation:

> Worker A is injured on the job and is eligible for both DI benefits and State workers' compensation benefits. His or her combined benefits after offset total $950 per month. For the tax year, he or she receives $11,400 in benefits. Since benefits from neither of these programs are taxable, his or her net benefits after taxes remain $11,400.

> Worker B is eligible for DI benefits and Civil Service disability retirement benefits. His or her combined monthly benefits after offset are as follows:

Civil Service	$700
DI	250
Total	$950

Under certain circumstances, Civil Service retirement benefits are taxable subject to a $5,200 yearly exclusion. Since worker B received $8,400 from Civil Service benefits, $3,200 of his or her benefits could be subject to taxes ($8,400 minus $5,200). Assuming the individual was single and filing an individual return and had other taxable income of $1,000, his or her Federal taxes could amount to $123. 1/ Accordingly, his or her net benefits after offset and after taxes would be less than worker A who received the same amount in gross benefits, but paid no taxes.

If the Congress wished two individuals eligible for dual benefits to receive the same net benefits after the offset, it should design the offset to allow for differences in tax treatment.

1/Based on the 1980 tax tables.

This could be accomplished by (1) changing the tax code to treat all disability benefits the same for tax purposes or (2) providing for an adjustment of the offset at the end of the year to compensate for any Federal income taxes paid or payable on disability benefits subject to the offset.

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